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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,743	12/24/2003	Kazuo Shiota	2091-0307P	9685

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EXAMINER
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WHIPKEY, JASON T

ART UNIT	PAPER NUMBER
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2622

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/10/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/10/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

## Office Action Summary

Application No.

10/743,743

Applicant(s)

SHIOTA ET AL.

Examiner

Jason T. Whipkey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 14 and 19 are objected to as failing to comply with 37 CFR 1.75(a) for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Both claims recite the limitation “the selecting means” on line 6. There is insufficient antecedent basis for this limitation in the claims. For examination purposes, the claims will be treated as if they read, “the selecting procedure”.

2. Applicant is advised that should claim 11 be found allowable, claims 17-20 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

It appears that claims 17-20 were intended to be dependent on claim 16. For examination purposes, they will be treated as such.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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4. Claims 11-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11-15 define a program embodying functional descriptive material. However, the claims do not define a computer-readable medium or memory and is thus non-statutory. The scope of the presently claimed program can range from paper on which the program is written to a program simply contemplated and memorized by a person.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2, 7, 12, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 2 recites the limitation “the tag information” on lines 4-5. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, the claim will be treated as if it reads, “tag information”.

Claims 7, 12, and 17 also improperly recite “the tag information” and will be treated similarly.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 6, 11, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mizoguchi (U.S. Patent No. 5,805,215).

Regarding **claims 1 and 6**, Mizoguchi discloses a method for classifying image data sets (the system works on a plurality of images generated by camera 3), to which date data that represents the date of photography are attached (see column 6, lines 62-65), comprising the steps of:

obtaining the date data from the image data sets (see column 7, lines 11-14);

selecting an event (see column 7, lines 17-27) corresponding to the date of photography from a database of events (stored in data memory 42), in which events that relate to each of a plurality of people are stored, correlated with dates of the events (see column 6, lines 22-37); and

correlating the image data sets with the corresponding event (see column 7, lines 33-37).

**Claims 11 and 16** can be treated like claim 1. Additionally, Mizoguchi discloses that the system operates by executing programs stored in ROM 41 and executed by CPU 45 (see column 5, line 66, through column 6, line 4).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 2, 7, 12, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizoguchi.

Regarding **claims 2 and 7**, while Mizoguchi discloses associating event data with images. However, Mizoguchi is silent with regard to specifically storing the event tag in a tag.

Official Notice is taken that it was well known in the art at the time the invention was made to store metadata about an image in the image file. An advantage of doing so is that a copy of the image can be separated from the associated data source while still maintaining the data. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Mizoguchi's system store event information in a file tag.

**Claims 12 and 17** can be treated like claim 2. Additionally, Mizoguchi discloses that the system operates by executing programs stored in ROM 41 and executed by CPU 45 (see column 5, line 66, through column 6, line 4).

12. Claims 3-5, 8-10, 13-15, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizoguchi in view of Nakamura (U.S. Patent No. 7,009,643).

**Claims 3 and 8** can be treated like claim 1. However, Mizoguchi is silent with regard to storing the images in folders according to their associated events.

Nakamura discloses an imaging system, wherein:

the image data sets are correlated with the corresponding event by saving the image data sets in folders (called albums; see column 1, lines 30-31) corresponding to the corresponding event (after an image is associated with an event, an album for that even is created and the image is stored therein; see column 4, line 64, through column 5, line 4).

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As suggested in column 2, lines 6-10, an advantage of storing event images in a folder is that the user need not move images manually in order to create folder collections of images. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Mizoguchi's system create folders for events.

**Claims 4 and 9** can be treated like claim 1. However, Mizoguchi is silent with regard to selecting a single database from a number of databases.

Nakamura discloses an imaging system, wherein:

selection of a single database from among a plurality of databases is received in the case that a plurality of databases exist (a user is asked to select a calendar that contains events; see column 4, lines 3-5); and

the corresponding event is selected from events stored in the selected database (see column 4, lines 38-39).

An advantage of selecting one of a number of calendars is that the user gains additional flexibility in sorting images. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Mizoguchi's system permit a user to select a database from a plurality of databases, as described by Nakamura.

**Claims 5 and 10** can be treated like claim 1. However, Mizoguchi is silent with regard to selecting a single event from a plurality of associated events.

Nakamura discloses an imaging system, wherein:

in the case that a plurality of corresponding events, correlated with dates represented by the date data (see column 4, lines 38-47), are related to the



plurality of people (a variety of information is stored in image metadata; see column 3, lines 26-35);

selection of a single corresponding event from among the plurality of corresponding events is received (if an image corresponds to more than one event, the metadata is evaluated; see column 4, lines 44-47); and

the image data sets are correlated with the selected corresponding event (the image data is stored in a selected album; see *id.*).

An advantage of selecting a most appropriate event to correlate image data to is that the image data may be definitively associated with a single event rather than multiple events. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Mizoguchi's system select an appropriate event when a conflict occurs.

Nakamura is silent with regard to displaying the plurality of events.

Official Notice is taken that it was well known in the art of electronics at the time the invention was made to display a problem or discrepancy that occurs during data processing. An advantage of doing so is that the system can comply with a user's preferences. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Nakamura's system display the plurality of applicable events.

**Claims 13 and 18** can be treated like claim 3. Additionally, Mizoguchi discloses that the system operates by executing programs stored in ROM 41 and executed by CPU 45 (see column 5, line 66, through column 6, line 4).

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**Claims 14 and 19** can be treated like claim 4. Additionally, Mizoguchi discloses that the system operates by executing programs stored in ROM 41 and executed by CPU 45 (see column 5, line 66, through column 6, line 4).

**Claims 15 and 20** can be treated like claim 5. Additionally, Mizoguchi discloses that the system operates by executing programs stored in ROM 41 and executed by CPU 45 (see column 5, line 66, through column 6, line 4).

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:30 P.M. eastern daylight time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava, can be reached at (571) 272-7304. The fax phone number for the organization where this application is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTW

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April 1, 2007



**LIN YE**  
**PRIMARY PATENT EXAMINER**